

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



IN THE MATTER OF:) Case No. SF-RR-1002,
) et al.
UNIT DETERMINATION FOR PRINTING)
TRADES EMPLOYEES OF THE) Requests for
UNIVERSITY OF CALIFORNIA PURSUANT) Reconsideration
TO CHAPTER 744 OF THE STATUTES) and Judicial Review
OF 1978 (HIGHER EDUCATION) PERB Decision No. 243-H
EMPLOYER-EMPLOYEE RELATIONS ACT))
) PERB Decision No. 243a-H
)
)
) February 4, 1983

Appearances: Judith Droz Keyes and Jerrold C. Schaefer, Attorneys (Corbett, Kane, Berk & Barton) and James N. Odle, Associate Counsel for the Regents of the University of California; Marco Li Mandri for California Education Labor Organization.

Before Gluck, Chairperson; Tovar, Jaeger, Morgenstern and Burt, Members.

DECISION

Following the issuance of PERB Decision No. 243-H on September 30, 1982, the Public Employment Relations Board (PERB or Board) received requests for reconsideration of that decision from the University of California (University) and from the California Education Labor Organization (CELO), and petitions to join in request for judicial review from the University.

PERB rule 32410(a)¹ pertains to reconsideration of Board decisions and states:

¹PERB rules are codified at California Administrative Code, title 8, section 31001 et seq.

(a) Any party to a decision of the Board itself may, because of extraordinary circumstances, file a request to reconsider the decision within 20 days following the date of service of the decision. An original and 5 copies of the request for reconsideration shall be filed with the Board itself in the headquarters office and shall state with specificity the grounds claimed and, where applicable, shall specify the page of the record relied on. Service and proof of service of the request pursuant to section 32140 are required. The grounds for requesting reconsideration are limited to claims that the decision of the Board itself contains prejudicial errors of fact, or newly discovered evidence or law which was not previously available and could not have been discovered with the exercise of reasonable diligence.

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Government Code subsection 3564(a) pertains to judicial review and states:

No employer or employee organization shall have the right to judicial review of a unit determination except: (1) when the board in response to a petition from an employer or employee organization, agrees that the case is one of special importance and joins in the request for such review; or (2) when the issue is raised as a defense to an unfair practice complaint. A board order directing an election shall not be stayed pending judicial review.

Upon receipt of a board order joining in the request for judicial review, a party to the case may petition for a writ of extraordinary relief from the unit determination decision or order.

The Board has considered the submitted requests for reconsideration and petitions for judicial review. The

University addresses three issues: one, technical errors in unit placement; two, the creation of a separate unit of printing trades employees; and three, whether the Higher Education Employer-Employee Relations Act (HEERA)² requires a 30 percent showing of support by at least one employee organization before an election in an appropriate unit may be held. CELO asks the Board to reconsider the creation of systemwide units.

I. University of California: Request for Reconsideration and Petitions to Join in Request for Judicial Review

A. Technical Errors

The University has brought to the attention of the Board certain technical errors. These errors include the omission from seven of the eight unit determination decisions of an order concerning casual employees of the University.

Paragraph 1 of the Order in PERB Decision No. 243-H is hereby amended to read:

A unit of printing and bindery employees in the University printing department, excluding managers, supervisors and confidential employees, is appropriate for the purpose of meeting and conferring in good faith pursuant to Government Code section 3560 et seq. The inclusions in this unit are set forth in the attached Appendix. The status of casual employees shall be determined during the exclusionary phase of these proceedings.

²HEERA is codified at Government Code section 3560 et seq. All statutory references are to the Government Code, unless otherwise specified.

In accordance with the Orders in the above-referenced decisions, the remaining technical errors shall be corrected by the director of representation.

B. Creation of Printing Trades Unit

The University seeks placement of printing trades employees in a single, systemwide unit of skilled crafts employees. The Board found a separate unit of printing trades employees appropriate in light of its determination in PERB Decision No. 242-H that the reference to "skilled crafts employees" in section 3579 (d)³ refers to skilled building and construction trades employees. We declined to reconsider that determination or to join in the petition for judicial review in Unit Determination for Skilled Crafts Employees of the University of California (Reconsideration) (2/4/83) PERB Decision No. 242a-H.

A separate unit of printing trades employees remains appropriate. The University has raised no new issues of law or

³Section 3579 (d) states:

(d) Notwithstanding the foregoing provisions of this section, or any other provision of law, an appropriate group of skilled crafts employees shall have the right to be a single, separate unit of representation. Skilled crafts employees shall include, but not necessarily be limited to, employment categories such as carpenters, plumbers, electricians, painters, and operating engineers. The single unit of representation shall include not less than all skilled crafts employees at a campus or at a Lawrence Laboratory.

fact to warrant reconsideration or judicial review of the creation of a printing trades unit. Its request for reconsideration and petition for judicial review of PERB Decision 243-H are, therefore, denied.

C. Proof of Support

The University also requests the Board to reconsider or join in requesting judicial review regarding whether HEERA requires a 30 percent showing of support by at least one employee organization before an election in an appropriate unit may be held. The request for reconsideration is granted. The Board finds that a 30 percent showing of support is required by HEERA before a directed election may be held. See the discussion in Unit Determination for Skilled Crafts Employees of the University of California (Reconsideration), id. Accordingly, the Order in PERB Decision No. 243-H is hereby amended to read:

The Board hereby ORDERS a representation election in this unit, provided that an employee organization has demonstrated or demonstrates at least 30 percent showing of support not later than March 15, 1983. The director of representation may seek an extension of this deadline from the Board for sufficient cause.

II. California Education Labor Organization; Request for Reconsideration

CELO requests the Board to reconsider the creation of systemwide units. However, CELO is not a party to this unit determination process. PERB rule 32410 states that requests

for reconsideration may be raised by "Any party to a decision" (Emphasis added.) Failure to conform to this limitation would lead to inefficiency and potential misuse of the Board's administrative processes. For these reasons CELO's request for reconsideration is denied.

ORDER

In accordance with the foregoing discussion and in consideration of the entire record in this case, the Public Employment Relations Board hereby ORDERS that:

1. Paragraph 1 of the Order in PERB Decision 243-H is amended to read:

A unit of printing and bindery employees in the University printing department, excluding managers, supervisors and confidential employees, is appropriate for the purpose of meeting and conferring in good faith pursuant to Government Code section 3560, et seq. The inclusions in this unit are set forth in the attached Appendix. The status of casual employees shall be determined during the exclusionary phase of these proceedings.

2. The remaining technical errors brought to the Board's attention shall be corrected by the director of representation, in accordance with the Order in PERB Decision No. 243-H.

3. The request for reconsideration and petition to join in judicial review filed by the University of California concerning the unit placement of printing trades employees in PERB Decision No. 243-H are DENIED for failure to show "extraordinary circumstances" or "special importance" within

the meaning of PERB rule 32410 and subsection 3564(a), respectively.

4. Paragraph 3 of the Order in PERB Decision No. 243-H is amended to read:

The Board hereby ORDERS a representation election in this unit, provided that an employee organization has demonstrated or demonstrates at least 30 percent showing of support not later than March 15, 1983. The director of representation may seek an extension of this deadline from the Board for sufficient cause.

5. The request for reconsideration filed by the California Education Labor Organization is DENIED because the organization is not a party to this proceeding.

By the BOARD